

BOARD OF SUPERVISORS  
COUNTY OF YORK  
YORKTOWN, VIRGINIA

Ordinance

At a regular meeting of the York County Board of Supervisors held in York Hall, Yorktown, Virginia, on the \_\_\_\_ day of \_\_\_\_, 2006:

---

Present

Vote

Walter C. Zaremba, Chairman  
Kenneth L. Bowman, Vice Chairman  
Sheila S. Noll  
James S. Burgett  
Thomas G. Shepperd, Jr.

---

On motion of \_\_\_\_, which carried \_\_\_\_, the following ordinance was adopted:

AN ORDINANCE TO APPROVE AN APPLICATION TO ESTABLISH A PLANNED DEVELOPMENT AT 133 BATTLE ROAD CONSISTING OF 49 TOWNHOUSES AND 20 CONDOMINIUM UNITS COMBINED WITH APPROXIMATELY 34,500 SQUARE FEET OF RETAIL/OFFICE SPACE

WHEREAS, Mid-Atlantic Communities LLC has submitted Application No. PD-18-06, which seeks to amend the York County Zoning Map by reclassifying from GB (General Business) and R20 (Medium-density Single-family Residential) to PD (Planned Development) approximately 12.46 acres of a 24.2-acre site for the purpose of establishing a planned development consisting of 49 townhouses and 20 condominium units combined with approximately 34,500 square feet of retail/office space located at 133 Battle Road at the southeast quadrant of the intersection of George Washington Memorial Highway (Route 17) and Battle Road (Route 718) and further identified as Assessor's Parcel No. 24-56B (GPIN Q09d-4122-0113) and a portion of Assessor's Parcel No. 24-81B (Q09d-3894-0486); and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission recommends approval of this application; and

WHEREAS, the York County Board of Supervisors has conducted a duly advertised public hearing on this application; and

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the \_\_\_\_ day of \_\_\_\_, 2006, that Application No. PD-18-06 be, and it is hereby, approved to amend the York County Zoning Map by reclassifying from GB (General Business) and R20 (Medium-density Single-family Residential) to PD (Planned Development) approximately 12.46 acres of a 24.2-acre site for the purpose of establishing a planned development consisting of 49 townhouses and 20 condominium units combined with approximately 34,500 square feet of retail/office space located at 133 Battle Road at the southeast quadrant of the intersection of George Washington Memorial Highway (Route 17) and Battle Road (Route 718) and further identified as Assessor's Parcel No. 24-56B (GPIN Q09d-4122-0113) and a portion of Assessor's Parcel No. 24-81B (GPIN Q09d-3894-0486).

BE IT FURTHER ORDAINED that said approval shall be subject to the voluntarily proffered conditions set forth in the applicant's proffer statement titled "Proffers for Yorktown Green" signed by the property owners and the contract purchaser, dated \_\_\_\_\_, and received by the County on \_\_\_\_\_; and provided further that a copy of said proffer statement shall be recorded in the Office of the Clerk of the Circuit Court pursuant to the requirements of Section 24.1-114(e)(1) of the York County Zoning Ordinance.

BE IT STILL FURTHER ORDAINED that the Planned Development shall be subject to the following conditions:

1. General Layout, Design, and Density

- a) A site plan, prepared in accordance with the provisions of Article V of the Zoning Ordinance, shall be submitted to and approved by the Department of Environmental and Development Services, Division of Development and Compliance prior to the commencement of any land clearing or construction activities on the site. Except as modified herein, said site plan shall be in substantial conformance with the conceptual plans (including building elevations) titled "Yorktown Green Master Plan, Yorktown, Virginia" prepared by Hopke & Associates, Inc, dated August 3, 2006 and received by the Planning Division August 3, 2006; building elevations (three sheets) titled "Yorktown Green," prepared by Hopke & Associates, Inc., dated June 23, 2006 and received by the Planning Division June 22, 2006; and "Master Plan, Yorktown Green" prepared by C.E. Newbaker Surveying and Planning Inc., dated 4/26/06, and revised 7/30/06 .
- b) Except as modified herein, architectural design of all buildings shall be in substantial conformance with the building elevations submitted by the applicant and titled "Yorktown Green, Yorktown, Virginia" prepared by Hopke & Associates, Inc, dated June 23, 2006 and August 3, 2006 and received by the Planning Division on June 22, 2006 and August 3, 2006, re-

spectively, copies of which shall be kept on file in the York County Planning Division.

- c) Architectural design of buildings shall be in conformance with standards contained in Zoning Ordinance Section 24.1-378(d), Route 17 Corridor Overlay District. In addition to any modifications necessary to comply with those standards, the building architecture for the townhouse rows shall be modified so as to provide variation in the height or alignment of the longitudinal ridgeline of each structure, or to include some other architectural feature or treatment to mitigate the continuous ridgeline treatment depicted on the conceptual drawings.
- d) The maximum number of residential units shall be 69. The maximum number of townhouse units shall be 49. The allocation of commercial space and residential units in the four commercial structures shall be as indicated on the Hopke & Associates plan dated August 3, 2006. Commercial uses in the development shall be consistent with the list of uses permitted in the GB-General Business district, subject to the exclusions contained in the referenced proffer statement.
- e) The maximum building height for mixed-use commercial buildings shall be fifty feet (50') and for residential buildings it shall be forty feet (40').
- f) The development may be identified by a single monument-style sign located along the Route 17 frontage. Said sign shall not exceed sixty-four (64) square feet in area or ten (10) feet in height. Not more than four (4) individual commercial tenants shall be identified on the development identification sign and the area devoted to individual tenant identification shall not exceed 40% of the total sign face. Each commercial tenant space within the project shall be entitled to one marquee or canopy sign not exceeding 3 square feet in area at each customer entrance. Wall signage shall be permitted at a ratio of one (1) square foot per linear foot of tenant space building width for each face of the building with a customer entrance. Wall signage allowances shall not be transferable from one building face to another.
- g) Free standing and building-mounted lighting shall be full cut-off fixtures that are shielded and directed downward at a 90-degree angle to the ground to prevent off-site illumination. Illumination levels shall not exceed 0.5 foot candle at the right-of-way line for Route 17. All lighting schemes and lighting fixtures shall be consistent with the lighting recommended by the Illumination Engineering Society of North America (IESNA). A lighting plan indicating manufacturer's specifications for all fixtures and illumination levels for the development site shall be submit-

ted for review and approval by Environmental and Development Services at time of application for site plan approval.

- h) Minimum required parking for the commercial portion of the development shall be one space for every 250 square feet of commercial floor area. Minimum parking ratios for the residential components of the project shall be: condos/flats – 1.5 spaces per unit, plus 1 space for every three (3) units for visitor parking; townhouses – 2 spaces per unit, plus 1 space for every three (3) units for visitor parking. Visitor parking shall be appropriately and conveniently dispersed throughout the residential portions of the project.
- i) All commercial parking areas shall be screened from view of Route 17 with evergreen plantings having a minimum mature height of three (3) feet. Landforms, supplemented with appropriate landscaping, may be used to achieve the required screening effect.
- j) Landscaping along the Route 17 frontage of the development shall meet minimum planting standards for a 45-foot greenbelt pursuant to Zoning Ordinance Section 24.1-245(c).
- k) Within the townhouse portion of the development there shall be a minimum twenty-foot (20') setback from the face of the garage to the closest edge of any street curbline or streetside sidewalk. The minimum setback of the remainder of the façade of the townhouse (excepting the garage) from the closest edge of any street curbline or streetside sidewalk shall be ten feet (10'). Such area shall be landscaped with grass, trees and shrubs.

## 2. Commercial/Residential Ratios

- a) The development shall maintain the following commercial/residential unit ratios:
  - Commercial – 3,000 square feet of commercial floor area per useable (excluding utility easements and wetlands) land acre
  - Residential – 500 square feet of commercial floor area per dwelling unit

## 3. Development Schedule

- a) Prior to the issuance of the Building Permit for the 16<sup>th</sup> townhouse unit, ~~The first~~ Certificate of Occupancy (CO) for the first of the four (4) commercial buildings (either an exclusively commercial building – 13,500 s.f. – or a commercial/residential building – 4,200 s.f.) shall have been issued,

~~prior to issuance of the CO for the 24<sup>th</sup> townhouse unit and issuance of a building permit for the 25<sup>th</sup> townhouse unit. At or prior to the time of issuance of the 24<sup>th</sup> townhouse CO all of the tenant spaces within the first commercial building~~ and the commercial space shall be ready for individual tenant fit-out and customization to their individual needs.

- b) Prior to the issuance of the Building Permit for the 30<sup>th</sup> townhouse unit, ~~the first~~ CO for both of the mixed-use buildings (4,200 s.f. commercial space each) or one of exclusively commercial buildings (13,500 s.f. commercial space) ~~the second of the four (4) commercial buildings (either an exclusively commercial building or a commercial/residential building)~~ shall have been issued, ~~prior to the CO for the 44<sup>th</sup> townhouse unit and issuance of a building permit for the 45<sup>th</sup> townhouse unit. At or prior to the time of issuance of the 44<sup>th</sup> townhouse CO~~ and all of the tenant spaces within the ~~second~~ commercial building(s) shall be ready for individual tenant fit-out and customization to their individual needs.
- c) Prior to the issuance of the Building Permit for the 45<sup>th</sup> townhouse unit, the CO for both of the mixed-use buildings (4,200 s.f. commercial space each) and one of exclusively commercial buildings (13,500 s.f. commercial space), or both of the exclusively commercial buildings (13,500 s.f. each) shall have been issued, and all of the tenant spaces within the commercial building(s) shall be ready for individual tenant fit-out and customization to their individual needs.

#### 4. Streets and Circulation

- a) Street lighting shall be provided at each street intersection and at other such locations determined by the subdivision agent to maximize vehicle and pedestrian safety. The design of the street lighting shall be consistent with the design and character of the development.
- b) The developer shall install a right-turn lane and taper on George Washington Memorial Highway as shown on the development plan. Design, including length and width of the taper, shall meet all applicable standards of Virginia Department of Transportation (VDOT).
- c) There shall be no on-street parking within the townhouse section of the development except where street pavement width equals or exceeds twenty-eight feet (28').
- d) The vehicular/sidewalk connection to the abutting shopping center (GPIN Q08b-4408-4590) shown on the referenced plans shall be constructed and completed, inspected by the County and opened to vehicular and pedes-

trian use prior to the issuance of the first Certificate of Occupancy for the townhouse section of the development.

- e) In accordance with Zoning Ordinance Section 24.1-252(b)(4), access to proposed Parcel A-2 from Route 17 shall be permitted provided that it is designed as a right-in-only driveway, or right-in/right-out if approved by VDOT, interconnecting with the circulation system in the mixed-use development and that it is located on, abutting or near the common parcel boundary between the subject parcel and the residual parcel at the corner of Battle Road and Route 17, as shown on the plan titled “Yorktown Green Master Plan,” prepared by C.E. Newbaker Surveying and Planning, Inc., dated April 26, 2006, and revised July 30, 2006.
- f) The private street system within the development and as required above shall be designed and constructed in conformance with Zoning Ordinance Section 24.1-361(f), Planned Development District; Special Design Standards.
- g) A revised traffic impact analysis with trip generation figures reflecting the revised mix of residential and commercial use shall be submitted for review and approval by Environmental and Development Services at time of application for site plan approval.

## 5. Utilities and Drainage

- a) Public sanitary sewer service shall serve this development, the design of which shall be subject to approval by the County in accordance with all applicable regulations and specifications. The applicant shall grant to the County all easements deemed necessary by the County for the maintenance of such sewer lines.
- b) A public water supply and fire protection system shall serve the development, the design of which shall be subject to approval by the County in accordance with all applicable regulations and specifications. The applicant shall grant to Newport News Waterworks all easements deemed necessary for maintenance of such water lines.
- c) The development shall be served by a stormwater collection and management system, the design of which shall be approved by the County in consultation with VDOT and in accordance with applicable regulations and specifications. The property owners’ association(s) shall own and be responsible for the perpetual maintenance of all stormwater retention facilities serving the Planned Development and located within the project limits. This shall not preclude the use of cooperative arrangements for joint use of off-site stormwater management facilities.

6. Open Space and Recreation

- a) The location and arrangement of open space shall be generally as depicted on the plan titled “Master Plan, Yorktown Green” prepared by C.E. Newbaker Surveying and Planning Inc., dated 4/26/06, and revised 7/30/2006.
- b) Open space and recreation areas shall be developed in accordance with Zoning Ordinance Section 24.1-361(e). Common active/passive outdoor recreation areas shall include, at a minimum, the following facilities and amenities:
  - Gazebo
  - Picnic area
  - Walking trails
  - Benches
  - Fitness trail
- c) Indoor recreational amenities shall consist of, at a minimum, a 900-square foot ground-floor fitness center as shown on the development plan titled “Yorktown Green, Yorktown, Virginia” prepared by Hopke & Associates, Inc, dated August 3, 2006. Said facility shall be available without additional charges or fees (i.e., in addition to normal Property Owner’s Association dues) to all residents of the development and their guests. Said facility shall be completed and available to residents prior to the issuance of a building permit for the 25<sup>th</sup> townhouse unit.
- d) All common and public improvements within the development shall be subject to the standards governing timing, performance agreements, and surety requirements set forth in Sections 24.1-362(b)(3) and (4) of the Zoning Ordinance.
- e) The location and manner of development for the recreation area shall be fully disclosed in plain language to all home purchasers in this development prior to closing.
- f) Recreational facilities or improvements shall not be located within any wetland areas.
- g) All common open space and recreational facilities shall be protected and perpetual maintenance guaranteed by appropriate covenants as required in the York County Zoning Ordinance and submitted with development plans for the project.

7. Proffered Conditions

The reclassification shall be subject to the conditions voluntarily proffered by the property owners in the referenced proffer statement provided, however, that any more restrictive standards established by this Ordinance or the York County Zoning Ordinance shall prevail.

8. Restrictive Covenants

Prior to final site plan approval, the applicant shall submit restrictive covenants for review and approval by the County Attorney for their consistency with the requirements of Section 24.1-497 of the Zoning Ordinance.

In accordance with Section 24.1-114(e) of the York County Zoning Ordinance, a certified copy of the ordinance authorizing this rezoning together with the proffer statement referenced in No. 7 above shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court prior to application for site plan approval.